**THE HON'BLE SRI JUSTICE S.ANANDA REDDY**

**WRIT PETITION No.20540 of 1996**

**Dated: 10.10.2007**

Between:

Simma Papaiah Naidu .. Petitioner

And

The District Collector,
East Godavari District at Kakinada
and another. .. Respondents

**THE HON'BLE SRI JUSTICE S.ANANDA REDDY**

**WRIT PETITION No.20540 of 1996**

**ORDER:**

This writ petition is filed by the petitioner aggrieved by the inaction of the respondents in making a reference under Section 18 of the Land Acquisition Act, 1894 (for short, 'the L.A.Act'), though the petitioner has submitted an application dated 23.11.1994 seeking reference under Section 18 of the L.A.Act to the Civil Court for re-determination of the compensation payable in respect of his acquired lands.

2. It is stated that the respondents have acquired land to an extent of Acs.2.00. According to the petitioner, he is the owner of the said land having purchased under a registered sale deed, dated 15.07.1985. It is stated that the respondents acquired land to a total extent of Ac.350.25 gts., for which, a notification under Section 4 (1) of the L.A.Act was published for the purpose of a company. It is stated that after conducting an enquiry under Section 5-A of the L.A.Act, an award was passed in award No.2/91, dated 15.04.1991. The petitioner, thereafter, made a representation for payment of compensation for acquiring the land to an extent of Acs.2.00 in Survey No.237 of Vakalapudi village. But, compensation was paid only in respect of Ac.1.99 cents, instead of Acs.2.00, as per the proceedings of the 2nd respondent. However, the said compensation was received under protest, and thereafter, the petitioner made an application to the

2nd respondent on 23.11.1994, marking a copy of the same to the 1st respondent, seeking reference to the Civil Court, and though the petitioner waited for a long time, the respondents did not refer the matter. Therefore, he filed the present writ petition.

3. A counter is filed on behalf of the respondents disputing and denying the claims of the petitioner and also disputing the receipt of a notice and also the representation received from the petitioner, dated 23.11.1994, seeking a reference under Section 18 of the L.A.Act. It is also stated that, in view of the absence of any application having been received by the Land Acquisition Officer, the question of referring the matter under Section 18 of the L.A.Act does not arise.

4. In response to the counter, a reply is filed reiterating the averments made in the affidavit filed in support of the writ petition, and along with the reply, original copy of the certificate issued by the postal department also is filed showing that letters were sent to both the 1st respondent as well as the 2nd respondent under certificate of posting on 24.11.1994. In view of the above postal acknowledgement and also a copy of the notice sent to the Land Acquisition Officer as well as to the 1st respondent, the petitioners sought for appropriate orders for making reference to the Civil Court.

5. Heard both sides and considered the material on record.

6. The petitioner's land was acquired with reference to which an award was passed, and the petitioner having not satisfied with the amount of compensation awarded, sought for reference to the Civil Court under Section 18 of the L.A.Act. The petitioner claimed that an application was sent under a certificate of posting, seeking reference

to the Civil Court, and a copy of which is placed before this Court. In response to the said representation, a counter is filed disputing the receipt of the said application seeking reference under Section 18 of the L.A.Act. A reply is filed denying the averments made in the counter, and in fact, the petitioner stated that as no action was taken in pursuance of the representation, dated 23.11.1994, another reminder was also sent on 23.08.1995 and even for that also, as there was no response, the present writ petition is filed.

In view of the above facts and circumstances of the case, it is not proper and just for the respondents authorities in not making a reference to the Civil Court.

7. Accordingly, the writ petition is disposed of directing the Land Acquisition Officer to refer the matter to the Civil Court under Section 18 of the L.A. Act for re-determination of the compensation, to which the petitioner is entitled to in respect of his acquired land, within four weeks from the date of receipt of a copy of this order. No costs.

**S.ANANDA REDDY**

Dt.10.10.2007
v v